

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 21-cr-78 (SRN/TNL)

Plaintiff,

**ARRAIGNMENT NOTICE
&
ORDER**

v.

Alphonse Latrese Herron, Jr. (1), and
Jessica Jean Christenson (2),

Defendants.

This matter comes before the Court on Defendant Jessica Jean Christenson’s Motion to Continue Motion Filing Date and Exclude Time Under the Speedy Trial Act, ECF No. 39. Defendant Christenson also filed a Statement of Facts in Support of Exclusion of Time Under Speedy Trial Act, ECF No. 40. Defendant Christenson has requested a 60-day extension of time as she needs “more time to consult [with counsel], review discovery and consider case options.” ECF No. 39 at 1; *see also* ECF No. 40 at 1. The Government and Defendant Alphonse Latrese Herron, Jr., have no objection to the requested extension. ECF No. 39 at 1.

Additionally, beginning on March 13, 2020, and continuing thereafter, the Honorable John R. Tunheim, Chief District Judge for the United States District Court for the District of Minnesota, has issued a series of General Orders in connection with the COVID-19 pandemic, addressing, among other things, criminal proceedings and trials.¹

¹ All General Orders related to the COVID-19 pandemic may be found on the Court’s website at <https://www.mnd.uscourts.gov/coronavirus-covid-19-guidance>.

On April 29, 2021, Chief Judge Tunheim entered General Order No. 28, which allows limited in-person proceedings to start on May 3, 2021, for defendants who decline to consent to conducting the proceeding using videoconferencing, or telephone conferencing if videoconferencing is not reasonably available. *See generally In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 28 (D. Minn. Apr. 29, 2021). General Order No. 28 states that because only limited in-person proceedings may be held each day, criminal proceedings may be continued until the date that the criminal proceeding takes place.

General Order No. 28 continues to encourage the use of videoconferencing in criminal proceedings and states that, with the defendant's consent, criminal proceedings will be conducted by videoconferencing, or telephone conferencing if videoconferencing is not reasonably available.² General Order No. 28 further provides that the presiding judge will enter orders in individual cases to extend deadlines and exclude time under the Speedy Trial Act to address delays attributable to COVID-19. **Accordingly, should a defendant file pretrial motions, counsel shall also file a letter indicating whether that defendant consents to a motions hearing by videoconference.** *See also* ECF No. 26,

Pursuant to 18 U.S.C. § 3161(h), this Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and Defendants in a speedy trial and such continuance is necessary to provide Defendant Christenson and her counsel

² *See also* General Order No. 27, which went into effect on March 25, 2021, vacated General Order No. 24, and extended the Court's authorization to conduct certain criminal proceedings via video or telephone conference pursuant to the CARES Act "[b]ecause the emergency created by the COVID-19 outbreak continues to materially affect the functioning of court operations in the District of Minnesota." *In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 27 (D. Minn. Mar. 24, 2021).

reasonable time necessary for effective preparation and to make efficient use of the parties' resources. Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant Christenson's Motion to Continue Motion Filing Date and Exclude Time Under the Speedy Trial Act, ECF No. 39, is **GRANTED**.

2. The period of time from **April 28 through July 20, 2021**, shall be excluded from Speedy Trial Act computations in this case. *See United States v. Mallett*, 751 F.3d 907, 911 (8th Cir. 2014) ("Exclusions of time attributable to one defendant apply to all codefendants." (quotation omitted)); *United States v. Arrellano-Garcia*, 471 F.3d 897, 900 (8th Cir. 2006) (same).

3. All motions in the above-entitled case shall be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **June 28, 2021**. D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses shall be delivered directly to the chambers of Magistrate Judge Leung.

4. **Should a defendant file pretrial motions, counsel shall also file a letter on or before June 28, 2021, indicating whether that defendant consents to a motions hearing by videoconference.**³ *See* ECF No. 26.

5. Counsel shall electronically file a letter on or before **June 28, 2021**, if no motions will be filed and there is no need for hearing.

³ Defendant Herron should also indicate whether he consents to arraignment by videoconference.

6. All responses to motions shall be filed by **July 12, 2021**. D. Minn. LR 12.1(c)(2).

7. Any Notice of Intent to Call Witnesses shall be filed by **July 12, 2021**. D. Minn. LR. 12.1(c)(3)(A).

8. Any Responsive Notice of Intent to Call Witnesses shall be filed by **July 15, 2021**. D. Minn. LR 12.1(c)(3)(B).

9. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The government makes timely disclosures and a defendant pleads particularized matters for which an evidentiary hearing is necessary; or
- b. Oral argument is requested by either party in its motion, objection or response pleadings.

10. **If required, the motions hearing shall take place before the undersigned on July 20, 2021, at 1:30 p.m., in Courtroom 9W, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota. D. Minn. LR 12.1(d).**

11. **Defendant Herron's arraignment hearing, ECF No. 16, is likewise continued and shall take place before the undersigned on July 20, 2021, at 1:30 p.m., in Courtroom 9W, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.**

12. **TRIAL:**

- a. **IF NO PRETRIAL MOTIONS ARE FILED BY A DEFENDANT**, the following trial and trial-related dates are:

All voir dire questions and jury instructions and trial related motions (including motions in limine) must be submitted to District Judge Susan Richard Nelson on or before **August 9, 2021**.

A status conference must be held at **a date and time to be determined** before District Judge Susan Richard Nelson.

This case must commence trial on **August 16, 2021, at 9:00 a.m.**, before District Judge Susan Richard Nelson in Courtroom 7B, Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert Street, **SAINT PAUL**, Minnesota.

- b. **IF PRETRIAL MOTIONS ARE FILED, the trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Susan Richard Nelson to confirm the new trial date.**

Dated: May 3, 2021

s/ Tony N. Leung
TONY N. LEUNG
United States Magistrate Judge
District of Minnesota

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